IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5312 OF 2005

Pandurang Namdeo Dhavale Petitioner
versus
The Divisional Controller of
MSRTC, Solapur & others Respondents

S.G.Kudle for petitioner.
G.S.Hegade for respondent no.1.

CORAM : R.M.S.KHANDEPARKAR, J.

DATE : 06th November 2006

PC :

1. Heard advocates for the parties.

2. The petitioner challenges reference order passed by the Labour Court, Solapur rejecting the reference. The learned advocate for petitioner submitted that the medical evidence produced on record clearly disclose that the petitioner was sick and, therefore, could not attend the services. He also submitted that the Labour Court has clearly arrived at a finding about enquiry being vitiated. In these circumstances, considering the medical evidence, the Labour

Court ought to have allowed the reference. The contentions on behalf of petitioner are disputed by learned advocate for respondents.

3. The impugned order apparently discloses that the petitioner failed to lead any cogent evidence in support of his claim of sickness. That apart, the finding arrived at by the Labour Court is on proper analysis of the evidence, but the records disclose that the petitioner without any justification refused to report to the transferred place and thereafter claimed that he was sick during the relevant period. However, he did not produce cogent medical evidence. Mere production of the so called medical certificate, cannot by itself prove that the petitioner was sick at the relevant time. In order to enable the Labour Court to believe the contention of the petitioner about his sickness, it was necessary for the petitioner to examine the Doctor who had treated the petitioner at a relevant time, if at all he was really sick. Having not done so, no fault can be found with the impugned order for giving no credence to the so called medical certificate produced by the petitioner. The impugned order does not disclose any jurisdictional error and the same has been passed

on detailed analysis of the evidence on record. Being so, there is no case made out for interference in the writ jurisdiction, and the petition is rejected.

(R.M.S.KHANDEPARKAR, J.)